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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,926	01/18/2001	Alan John Lunn	12805-002001	9930
26161	7590	05/26/2005	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			NGUYEN, ANTHONY H	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/764,926

Applicant(s)

LUNN, ALAN JOHN

Examiner

Anthony H. Nguyen

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31, 33-57 and 60-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-31, 33-57, 60-65 and 73-86 is/are allowed.
- 6) ☒ Claim(s) 66-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 66-70 are rejected under 35 U.S.C. 102(a) as being anticipated by Troester (US 6,135,022).

With respect to claims 66 and 68, Troester teaches a marking device 10 having a housing 50 (Fig.3), a frame pivotally mounted in the housing about an axis 30, a marking head 14 which includes a head pin 12 that is actuated by a solenoid (not shown, Troester, col.10 line 13) and mounted in the carriage 15 which is moved parallel to the pivoted axis by a motor 28 and a motor 22 used to pivot the frame in a substantially orthogonal direction and a handle 82 (Fig.4B). Note that the elements of Troester are contained in the housing therefore the recoils of the marking head do not cause moments about the device's center of gravity.

With respect to claim 67, Fig.3 of Troester shows the housing 50 having a window (no reference) through which the marking head 14 protrudes between the standoffs 48.25-27 and 42-44.

With respect to claims 69 and 70, Troester teaches the head carriage 15 on which the marking head 14 is mounted for sliding along the guide rods or rails 24 and 26 or the first direction.

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Claims 71 and 72 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Troester (US 6,135,022) in view of Wadge (US 6,263,980).

With respect to claim 71, Troester teaches all that is claimed, except the housing which is a clamshell housing. However, Wadge teaches a power tool 2 having a clamshell housing 4 that includes ribs 30 which function as a bearing bush to secure a motor 22 in place. In view of the teaching of Wadge, it would have been obvious to one of ordinary skill in the art to modify the housing of the marking device of Troester by substituting the clamshell housing as taught by Wadge for simplicity of producing a housing of a marking device. With respect to claims 72, the use of a disc spring disposed between two elements such as a pin and a housing to take up any tolerance between the two elements is well known in the art.

Allowable Subject Matter

Claims 1-31, 33-57, 60-65 and 73-86 are allowable.

Response to Arguments

Applicant states that the rejection of claims 66-72 are moot in view of the amendment of the claims.

However, claims 66-72 have not been amended or cancel. Therefore, the rejections are repeated.

Conclusion

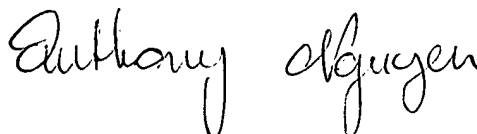
Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (571) 272-2169. The examiner can normally be reached daily from 9 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (571) 272-2168.

The fax phone number for this Group is (703) 872-9306.



Anthony Nguyen
5/20/05
Patent Examiner
Technology Center 2800